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REMARKS

The Examiner has objected to the claims. Such objection is deemed overcome by virtue of the clarifications made to the claims hereinabove.

The Examiner has further rejected Claims 2, 18, and 34-35 under 35 U.S.C. 112, second paragraph. Such objection is deemed overcome by virtue of the clarifications made to the claims hereinabove.

The Examiner has rejected Claims 1-2, 4-15, 17-18, 20-30, and 33 under 35 U.S.C. 102(e) as being anticipated by Makita, U.S. Patent Application Publication No.: 2001/0007120. Applicant respectfully disagrees with this rejection, especially in view of the amendments made hereinabove. Specifically, the subject matter of Claims 14-16 et al. has been incorporated into each of the independent claims.

In the latest action, the Examiner relies on the following excerpt from Makita to meet applicant's claimed "executing scanning control logic utilizing a central processing unit" (see subject matter of each of the independent claims).

"[0174] When a command to record information on the recording medium 4 is supplied from the host computer 110 (step S7-1), information to be recorded corresponding to the command is supplied to the virus check unit 413. The virus check unit 413 performs a virus check on the information to be recorded (step S7-2).

[0091] The file management unit 121 manages the storage of files into, the readout and deletion of files from, and access rights to the recording medium 4 of the external storage 120. The file management unit 121 includes programs for managing the recording medium 4 formatted into a desired logical format in formats corresponding to operation systems such as the 12-bit FAT (File Allocation Table) of MS-DOS, the 16-bit FAT of MS-DOS, and UNIX."

Applicant respectfully disagrees with this assertion. As set forth hereinabove, a read command from the host is merely supplied to a virus check unit. Applicant respectfully asserts that this falls short of "executing" scanning control logic by the

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central processing unit. To emphasize this distinction, applicant now claims in each of the independent claims the following language:

“wherein the scanning co-processor is under the control of the central processing unit via the execution of the scanning control logic by the central processing unit.”

Only applicant teaches and claims a central processing unit that is specifically in control of the scanning co-processor. In the case of Matika, the central processing unit of such system may not even know the virus check unit exists (since it just sends read requests, etc. to memory), let alone specifically controlling the same, as claimed.

Further, with respect to the other references such as Zuta, control of the supervisor computer (the entity that the Examiner relies upon to meet applicant's claimed “co-processor”) is purposefully not controlled by the central processing unit in order to prevent virus proliferation, etc. Thus, Matika, Zuta, and the remaining reference(s) *teach away* from applicant's claimed invention, thus rendering the same *unobvious*.

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the Matika reference, especially in view of the amendments made hereinabove. However, despite the foregoing paramount distinctions and in the spirit of expediting the prosecution of the present application, applicant has incorporated the subject matter of Claims 14-16 et al. into each of the independent claims.

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With respect to the subject matter of Claim 15 et al., the Examiner has rejected the subject matter of such claim under 35 U.S.C. 103(a) as being unpatentable over Makita, U.S. Patent Application Publication No.: 2001/0007120, in view of Zuta, International Publication No.: WO 98/45778. Specifically, the Examiner relies on pages 13-15 from Zuta to meet applicant's claimed "wherein the data is sent to the scanning co-processor if it is determined that the data meets the predetermined criteria" (see subject matter of former Claim 15 et al., now incorporated into each of the independent claims).

Applicant respectfully disagrees with this assertion. To further emphasize the distinction between applicant's claimed subject matter and the teachings of Zuta, applicant now claims, in each of the independent claims, the following subject matter:

"where the criteria is based on a type of a file associated with the data."

Only applicant teaches and claims conditionally sending data to the scanning co-processor if it is determined that the data meets the predetermined criteria based on a type of a file associated with the data.

With respect to the subject matter of Claim 16 et al., the Examiner has rejected the subject matter of such claim under 35 U.S.C. 103(a) as being unpatentable over Makita, U.S. Patent Application Publication No.: 2001/0007120. Specifically, the Examiner simply dismisses as obvious applicant's claimed "wherein additional data to be scanned by the scanning co-processor is queued while waiting for the results from the scanning co-processor" (see subject matter of former Claim 16 et al., now incorporated into each of the independent claims), based on the excerpt below.

"[0192] Further, information recorded on the recording medium 4 can be organized in a succession by optimizing information to be recorded on the recording medium 4. Therefore, the recording medium 4 can be used efficiently. At this time, an optimization process can be performed in the external storage 410, thus preventing an increase in a processing load imposed on the host computer 110. Further, by performing the optimization process at

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a time of a low access frequency, an access process is prevented from being affected by the optimization process.”

Further, the Examiner argues that Matika describes a method of queuing data in an effective or optimized manner so that data can be read/written in the most effective way. Applicant respectfully disagrees with this assertion. The foregoing excerpt, in no way, even suggests queuing, as specifically claimed in the context of applicant's claims. Specifically, there is no additional data to be scanned by the scanning co-processor that is queued.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the first and third element of the *prima facie* case of obviousness have not been met, since the prior art reference fails to teach or suggest all the claim limitations, and any modification of the reference in order to meet applicant's claims would be unobvious.

It is further noted that the Examiner's rejection of applicant's dependent claims is replete with deficiencies. Just by way of example, the Examiner rejects Claim 37 under 35 U.S.C. 103(a) as being unpatentable over Makita, U.S. Patent Application Publication No.: 2001/0007120, in view of Slotznick, U.S. Patent No.: 6,011,537. Specifically, the Examiner relies on the following excerpt from Slotznick to make a prior art showing of applicant's claimed, “wherein the additional logic to be executed and the additional data

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queued to be scanned are handled utilizing multi-threading algorithms" (see Claim 37 et al.).

"The present invention downloads the secondary information to (or accesses the secondary information and stores it in) a local buffer or cache memory in the device after the primary information has been accessed and downloaded, while the primary information is being viewed or heard. Further processing and/or rendering of the secondary information is accomplished while the primary information is being viewed or heard. Accessing, downloading, processing and/or rendering the secondary information occurs in the "background" (at times through multi-tasking or multi-threading) and is not noticeable to the user. The secondary information can then be viewed (and/or heard) either at will with no waiting period, or while the next primary information is being accessed, downloaded, processed and/or rendered." (see col. 12, lines 4-18)

Applicant respectfully disagrees with this assertion. Specifically, Claim 37 requires not just multi-threading, but rather multi-threading for handling the additional logic to be executed and the additional data queued. As noted above, Matika does not even suggest additional data queued, as claimed, let alone multi-threading in such context.

Again, applicant respectfully asserts that at least the first and third element of the *prima facie* case of obviousness have not been met, since the prior art reference fails to teach or suggest all the claim limitations, and any modification of the references in order to meet applicant's claims would be unobvious. A notice of allowance or a specific prior art showing of each of the foregoing limitations, in combination with the remaining claim elements, is respectfully requested.

Still yet, applicant brings the Examiner's attention to the following subject matter in the added dependent claims, for full consideration:

"wherein the criteria is further based on a user" (see Claim 38);

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“wherein the criteria is further based on software logic run by a bios” (see Claim 39); and

“wherein the scanning control logic is executed automatically” (see Claim 40);

“wherein the scanning control logic is executed automatically when a computer is booted up” (see Claim 41);

“wherein the scanning control logic is executed manually by a user” (see Claim 42);

“wherein the scanning control logic is executed using software logic run by a bios” (see Claim 43); and

“wherein the central processing unit aids the scanning co-processor when a large amount of data is to be scanned” (see Claim 44).

Again, a notice of allowance or a specific prior art showing of each of the foregoing limitations, in combination with the remaining claim elements, is respectfully requested.

All of the independent claims are deemed allowable for the reasons set forth hereinabove. By virtue of their dependence on such claims, the dependent claims are further deemed allowable. Reconsideration is respectfully requested.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. Applicants are enclosing a check to pay for the added claims. The Commissioner is authorized to charge

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any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P014).

Respectfully submitted,

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